

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2286 – SB 2280

March 9, 2012

SUMMARY OF AMENDMENT (014128): Deletes all language after the enacting clause. Creates a Class E felony offense for a person to knowingly manufacture, deliver, sell, or possess with the intent to sell, deliver, or manufacture an imitation controlled substance. Defines imitation controlled substance. Imposes, in addition to any incarceration imposed, a fine of not less than \$2,000 nor more than \$5,000. Creates a Class A misdemeanor offense for a person, for the purpose of causing a condition of intoxication, inebriation, elation, dizziness, excitement, stupefaction, paralysis, or the dulling of the brain or nervous system, or disturbing or distorting of the audio or visual processes, to intentionally smell, inhale, inject, or consume in any manner, or to use, or possess for the purpose of so using, an imitation controlled substance. Imposes, in addition to any incarceration imposed, a fine of not less than \$250 nor more than \$2,500. The building and premises of any business in or upon which a violation is committed by an employee, agent, or owner of such business is declared to be a public nuisance and subject to abatement as provide in Title 29, Chapter 3, Part 1.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – Not Significant
Increase State Expenditures - \$86,100/Incarceration*

Increase Local Revenue – Not Significant
Increase Local Expenditures – Not Significant

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions applied to amendment:

- According to the Department of Correction (DOC) data, there has been an average of 28 admissions in each of the past 10 years for the Class E felony offense of counterfeit controlled substances. DOC estimates a 10 percent (3) increase in Class E admissions as a result of this bill.
- According to DOC, the average operating cost per offender per year for calendar year 2012 is \$61.36. The average post-conviction time served for a Class E felony is 1.28 years (467.52 days) at a cost of \$28,687.03 (\$61.36 x 467.52 days).


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- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on three offenders.
- The total additional operating cost for three offenders is \$86,061.09 (\$28,687.03 x 3 offenders).
- Pursuant to Tenn. Code Ann. § 40-35-111, the maximum fine, unless imposed by a jury, for other Class E felonies is \$3,000, and \$2,500 for other Class A misdemeanors.
- A small increase in cases in the court system will result in additional state and local government expenditures for processing the cases and additional state and local government revenue from fees, taxes and costs collected. These expenditures and revenue are estimated to be not significant.
- Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines for felony offenses is negligible. There will not be a significant increase in revenue as a result of the mandatory minimum fines for these offenses.
- According to the District Attorney Generals Conference, there will not be a significant impact on the caseloads and any increase can be accommodated within existing resources without an increased appropriation or reduced reversion.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/lsc